

Stein, Mark

From: John Nagle [Nagle.John@epamail.epa.gov]
Sent: Tuesday, March 05, 2013 3:26 PM
To: Stein, Mark
Subject: Fw: Mount Tom

From: Christine Vaccaro <christine.vaccaro@noaa.gov>
To: John Nagle/R1/USEPA/US@EPA
Cc: Mark Murray-Brown <Mark.Murray-Brown@noaa.gov>
Date: 05/09/2012 09:58 AM
Subject: Mount Tom

Hi John,
Sorry I missed your call yesterday.

In regard to Mount Tom, the impingement issue is still relevant. I know for the sampling program, we had indicated that if you sample during any months other than May or June, you should be OK for sampling, but that was a separate entity from the actual NPDES permit, which in this case covers both discharges and the intake at the facility. Since the facility would presumably be intaking water during the months of May and June, the impingement problem related to the operation of the plant would still exist. As a result, the entire permit will likely need a formal consultation, as Julie has indicated. We would obviously like to keep the vast majority of consultations informal, but there really doesn't seem to be any way around not going formal with Mount Tom.

A formal consultation requires a BA where the analysis of impacts to listed species is performed, much the same way an informal request would be done. But instead of concluding that the action is "not likely to adversely affect", where all impacts are insignificant or discountable, the conclusion is "likely to adversely affect", and in this case I would imagine "not likely to jeopardize the continued existence of the species". This means that some individuals of the species will probably be affected, but that the impact of the action individually and cumulatively will not jeopardize the species. From there, we would work on devising an "incidental take statement", which exempts a certain amount of take related to the operation of the facility and we would devise reasonable and prudent measures (RPMs) and terms and conditions to help you implement the measures we have included in the biological opinion.

If you have any other questions, let me know.

Cheers,
Chris

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